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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

KAYTLYND COLLINS as Personal )  
Representative of the Estate of )  
Paula Jean Kompkoff, and as )  
next friend of the minor children of )  
Paula Jean Kompkoff: M.C., M.C., A.C., )  
and E.C., )

Plaintiffs, )

vs. )

UNITED STATES OF AMERICA, )

Defendant. )  
\_\_\_\_\_ )

Case No.: \_\_\_\_\_

**COMPLAINT**

COME NOW Plaintiffs, KAYTLYND COLLINS, as Personal Representative of the Estate of PAULA JEAN KOMPKOFF and as next friend of her minor children M.C., M.C., A.C., and E.C., and for their cause of action against Defendant United States of America, allege as follows:

**Parties and Jurisdiction**

1) On or about April 11, 2016, plaintiff Paula Jean Kompkoff [hereinafter "Paula"] died.

2) Paula was the natural mother of four minor children: M.C., born in 2013; M.C., born in 2013; A.C., born in 2012, and; E.C., born in 2005.

3) Paula and the minor children were/are Alaskan Natives.

4) As an Alaskan Native, Paula qualified for medical treatment at the Alaska Native Medical Center [hereinafter "ANMC"] in Anchorage, Alaska.

5) The Chugachmiut Health Clinic/Center [hereinafter "the Clinic"] is a health-care facility situated in Chenega Bay, Alaska.

6) At all times pertinent, the minor children were residents of Chenega Bay, Alaska.

7) Plaintiff Kaytlynd Collins is an adult, Paula's oldest daughter, and surviving sister of the remaining minor children.

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1           8)     Plaintiff Kaytlynd Collins possesses sufficient qualifications and  
2           interest in order to competently and zealously prosecute the instant action as next-  
3           friend of the minor children.  
4

5           9)     On or about September 12, 2017, plaintiff Kaytlynd Collins  
6           petitioned for an estate to be opened on Paula's behalf in the Superior Court for the  
7           State of Alaska in the Fourth Judicial District at Bethel styled *In the Matter of the*  
8           *Estate of Paula Jean Kompkoff*, Case No. 4BE-17-00134ES.  
9

10          10)    Said estate has been opened and Kaytlynd Collins has been appointed  
11          as its personal representative.  
12

13          11)    Kaytlynd Collins is appropriately named as a plaintiff herein, in her  
14          representative capacity.  
15

16          12)    This cause of action arises under the Federal Tort Claims Act,  
17          28 U.S.C. §§ 1346, 2401, and 2671 et seq., and Alaska law.  
18

19          13)    At all times pertinent, Nathan Hemmer, M.D., was a licensed  
20          emergency room doctor working at ANMC in Anchorage, Alaska.  
21

22          14)    At all times pertinent, ANMC was an agent of the United States of  
23          America.  
24

25          15)    At all times pertinent, Dr. Hemmer was an employee and/or agent of  
                the United States of America.

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17) On January 31, 2018, the claims set forth herein were received by the United States Department of Health and Human Services, Indian Health Services. The claims were not responded to within the proscribed six-month period. The six-month period expired July 31, 2018.

18) Based on the foregoing paragraphs, this Court has jurisdiction over the claims asserted herein.

## General Allegations

19) In the ten-week period leading up to April 8, 2016, Paula made at least six emergency visits to the Clinic for shortness-of-breath and asthma-exacerbation episodes.

20) On the morning of April 8, 2016, she again presented to the Clinic, this time with clear and obvious signs and symptoms of status-asthmaticus and influenza pneumonia -- i.e., emergency life-threatening respiratory conditions which, if not properly and adequately diagnosed and treated, can and will result in respiratory failure, cardiac arrest, and death.

21) During her April 8<sup>th</sup> visit, Paula underwent the care and treatment of Dr. Hemmer.

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1           22) Proper treatment for Paula's condition required aggressive  
2 management with intravenous fluids, frequent nebulizer treatment with both  
3 albuterol and ipratropium, blood-gas analysis, chest x-rays, close vital sign  
4 monitoring, and the capacity for emergency intubation.  
5

6           23) The Clinic was not sufficiently equipped to provide the attention and  
7 expertise necessary to deal with Paula's condition.  
8

9           24) One or more care-providers at the Clinic recognized that Paula  
10 needed to be immediately medevac'd to a properly staffed and equipped facility in  
11 Anchorage that could cope with Paula's life-threatening respiratory condition, such  
12 as the Alaska Native Medical Center.

13           25) However, Dr. Hemmer failed to appreciate the true nature and gravity  
14 of her condition.  
15

16           26) Dr. Hemmer overruled the staff's urgings that Paula be immediately  
17 medevac'd and instead administered an inappropriate, less-aggressive, futile, and  
18 counterproductive course of medications and treatment that went on for several  
19 more hours.

20           27) Finally, on the morning of April 9, 2016 at or around 5:35 a.m., as a  
21 result of Paula's grave condition, a United States Coast Guard helicopter was  
22 summoned to medevac Paula to Anchorage.  
23

24           28) By then, however, it was too late.  
25

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29) During the flight, Paula suffered a cardiac arrest.

30) Upon her arrival at Providence Medical Center's Emergency Department in Anchorage, she was pulseless.

31) Providence personnel did manage to resuscitate her and transfer her to its Intensive Care Unit.

32) Although Paula survived for another two days, she expired on April 11, 2016, as alleged.

33) Having undergone cardiac arrest during the medevac flight, she had sustained a significant hypoxic brain injury and ultimately, brain death.

34) Her causes of death were listed as anoxic encephalopathy, influenza pneumonia, renal failure, and shock.

**First Cause of Action –**  
**Negligence; Medical Malpractice**

35) Paula's respiratory conditions posed a clear and mortal threat if not promptly and properly treated by competent specialists with the aid of adequate instrumentation, facilities, and procedures, which the Clinic in Chenega Bay did not have and could not provide.

36) Dr. Hemmer breached applicable standards of care in a number of ways, including, but not limited to: (a) failing to assess and diagnose Paula's true condition and its gravity; (b) overruling staff's urgings and suggestions that Paula

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1 be immediately medevac'd to a better equipped and more suitable facility in  
2 Anchorage; (c) administering a futile and counterproductive course of medications  
3 that worsened Paula's condition, and; (d) pursuing a course of treatment at Chenega  
4 Bay that worsened her condition and foreclosed her opportunity for a timely  
5 evacuation to more suitable and better equipped care facilities in Anchorage.  
6

7 37) Said breaches in the standards of care constituted both negligence  
8 and recklessness under AS 09.55.549(f).  
9

10 38) The negligence and recklessness alleged herein directly and  
11 proximately caused Paula's death.

12 39) As a direct and proximate result of said negligence and recklessness,  
13 plaintiffs have suffered both economic- and non-economic losses, past and future,  
14 including but not limited to: Paula's pre-death pain and suffering; Paula's loss of  
15 future earnings and non-market services; medical and funeral expenses; future  
16 subsistence losses; emotional distress and psychological injuries; loss of their  
17 mother's contributions for support; loss of their mother's assistance and services;  
18 loss of their mother's training, education and parental guidance, and; loss of parental  
19 consortium.  
20

21 40) Defendant is liable to plaintiffs for negligence and recklessness  
22 herein in excess of \$100,000.00, the exact amount to be proved at trial.  
23  
24  
25

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WHEREFORE, plaintiffs pray for judgment as follows:

1. For compensatory damages in their favor against defendant United States of America, as alleged;
2. For costs and attorney's fees, as appropriate;
3. For such other relief as the court may deem just and proper.

DATED this 19<sup>th</sup> day of September, 2018 at Anchorage, Alaska.

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s/ David Henderson  
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VALCARCE LAW OFFICE  
Attorney for Plaintiffs

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